

March 10 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 10-0084

FILED

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Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

BRADLEY HOWARD/HOWARD FAMILY 1995 TRUST,)

Appellant and Third-Party Respondent,)

v.)

SHELLY WEIDOW,)

Appellee and Petitioner,)

v.)

UNINSURED EMPLOYERS' FUND,)

Appellee and Respondent/Third-Party Petitioner.)

ORDER

Before this Court is a Notice of Appeal of the Workers' Compensation Court's Findings of Fact, Conclusions of Law, and Judgment dated January 22, 2010, and the court's Order on a motion deemed one for summary judgment, dated December 31, 2008. The notice of appeal states that this is an appeal from an order certified as final under M. R. Civ. P. 54(b).

Pursuant to M. R. App. P. 4(4)b., we have reviewed the District Court's judgment and order for compliance with M. R. Civ. P. 54(b) and M. R. App. P. 6(6). The Workers' Compensation Court certified its Findings of Fact, Conclusions of Law, and Judgment as final pursuant to ARM 24.4.348(2). However, nothing in either the court's Findings, Conclusions, and Judgment or in its summary judgment order addresses the certification requirements of M. R. Civ. P. 54(b) and our case law interpreting that rule.

We conclude that the court's certification order does not comply with M. R. Civ. P. 54(b), the requirements of M. R. App. P. 6(6), or our case law interpreting certification orders under M. R. App. P. 54(b). *See Satterlee v. Lumberman's Mut. Cas. Co.*, 2007 MT 325, 340 Mont. 176, 178 P.3d 689. At this juncture, however, it is unclear to us whether the Workers' Compensation Court has entered a final order disposing of all

claims as to all parties, in which case certification under M. R. App. P. 54(b) is not necessary.

Therefore,

IT IS ORDERED that, within 30 days of the date of this Order, Appellant shall prepare, file, and serve either a Rule 54(b) certification order from the Workers' Compensation Court which addresses the requirements of our case law interpreting certification orders under that rule or, if counsel determines 54(b) certification is not required, a corrected notice of appeal indicating that this is NOT an appeal from an order certified as final under M. R. Civ. P. 54(b).

IT IS FURTHER ORDERED that the Clerk of this Court give notice of this Order to counsel of record and to the Hon. James Jeremiah Shea.

Dated this 9th day of March, 2010.

W. William Lynch

Patricia Cotten

James Shea

Justices

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